

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

THERESA K. COOK,)	
)	
Plaintiff,)	
)	
v.)	No. 20-03370-CV-S-DPR
)	
ANDREW M. SAUL,)	
)	
Defendant.)	

ORDER

Before the Court is Plaintiff's Application for Leave to File Action without Payment of Fees. (Doc. 1.) Upon review, the Application will be **DENIED**.

"The opportunity to proceed *in forma pauperis* is a privilege, not a right." *Weaver v. Pung*, 925 F.2d 1097, 1099 n.4 (8th Cir. 1991). A court may "authorize the commencement [] of any suit [] without prepayment of fees or security therefor, by a person who submits an affidavit [] that the person is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1). In determining whether a plaintiff should be granted leave to proceed *in forma pauperis*, the court employs a two-step process. *Martin-Trigona v. Stewart*, 691 F.2d 856, 857 (8th Cir. 1982). First, the court must decide whether the plaintiff qualifies by economic status. *Id.* Local Rule 83.7(c) provides that that payment of the initial filing fee should not "cause [the applicant] to give up the basic necessities of life." Second, if a plaintiff qualifies by economic status, the court must determine whether the action should be dismissed as frivolous or malicious, for failing to state a claim upon which relief may be granted, or for seeking relief against an immune party. *Martin-Trigona*, 691 F.2d at 857; *see also* 28 U.S.C. § 1915(e)(2)(B).

A review of Plaintiff's Affidavit of Financial Status (doc. 2) shows that she does not qualify economically to proceed in forma pauperis. Plaintiff and her spouse own real property, a house in

Saint Robert, Missouri, which has an estimated value of \$200,000, including approximately \$75,000 in equity. *Id.* at 3-4. Plaintiff and her spouse also own two vehicles worth \$8,000 and \$20,000 respectively, with no debt on the vehicle valued at \$8,000. *Id.* at 3. Plaintiff has \$2,500 cash on hand in her bank account. *Id.* at 4. In addition, Plaintiff's spouse's net monthly income of \$5,725.00 exceeds their monthly expenses by at least \$2,000. *Id.* at 3-5. Based on these facts, Plaintiff appears to have sufficient financial resources to pay the filing fee for a civil complaint and does not qualify by economic status.

Accordingly, the Application for Leave to File Action without Payment of Fees is **DENIED**. Plaintiff is granted leave to pay the \$400.00 filing fee on or before **March 1, 2021**. If the filing fee is not paid by said date, this case will be transferred to an Article III District Judge for dismissal without further notice.

IT IS SO ORDERED.

/s/ David P. Rush

DAVID P. RUSH

UNITED STATES MAGISTRATE JUDGE

DATE: January 28, 2021